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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,528	06/27/2003	Hidehiko Ota	473890-608	9700

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EXAMINER

HUBER, PAUL W

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/607,528	Applicant(s) OTA, HIDEHIKO	
	Examiner Paul Huber	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/787,756.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>062703</u> . | 6) <input type="checkbox"/> Other: ____. |

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The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The original ribboned copy of U.S. Patent No. 6,414,927 has not been surrendered. Either the original patent, or a statement addressing the loss or inaccessibility of the original patent, must be received before the reissue application can be allowed.

The specification is objected to as failing to include a description of the continuing data, i.e., 'This application is a reissue of U.S. Application Serial No. 09/787,756, filed March 22, 2001, now U.S. Patent No. 6,414,927, which is a 371 of PCT/JP00/05492, filed August 17, 2000', or language equivalent thereto.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Takahiro et al. (JP-11213503).

Regarding claims 1, 4 & 8, Takahiro et al. discloses a method and apparatus of ejecting a disk from a disk loading apparatus. See figures 3, 7 & 10. The method and apparatus includes: a roller G for pulling in and ejecting a disk (see figures 2, 3 & 8); detecting a pass of the disk when the disk is being ejected (by detecting means 35 or by detecting means 34); discriminating the size of the disk (the transportation means G is halted when a detection means 35 is brought into a non-detecting state, i.e., the disk is discriminated to be a large diameter disk, and the transportation means G is halted when a detection means 34 is brought into a non-detecting state, i.e., the disk is discriminated to be a small diameter disk); and controlling, in response to the discriminating size, an operation time of ejecting the disk (i.e., a time till when the transportation means/roller G is halted). See abstract.

Regarding claims 2, 3 & 7, disks having center holes of various sizes are ejected out of the disk loading apparatus by substantially the same distances. See figures 7 & 10. Furthermore, the ejecting of the disk is stopped when the center holes of the disk is out of the disk loading apparatus.

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Regarding claims 5 & 10, the size of the disk is discriminated during a disk loading operation based on a period from a time when the disk starts to pass over a disk-pass detector 33 to a time when the disk is loaded.

Regarding claims 6 & 11, the size of the disk is discriminated during a disk eject operation based on a period of time from the start of the disk ejecting operation to a time when the disk (edge) is detected by a disk-pass detector 35 or disk-pass detector 34. The disk is discriminated to be a large diameter disk during the occurrence of disk-pass detector 35 detecting the disk edge. The disk is discriminated to be a small diameter disk during the occurrence of disk-pass detector 34 detecting the disk edge.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahiro et al., as applied to claim 8 above, in further view of Son et al. (USP-5,644,561).

Takahiro et al. discloses the invention as claimed, but fails to specifically teach discriminating the size of the disk based on a period of time for the disk, when mounted on a turntable, to rotate at a predetermined speed from a stopped position. Son et al. discloses a method of discriminating the size of the disk based on a period of time for the disk, when mounted on a turntable, to rotate at a predetermined speed from a stopped position (see figure 4), in the same field of endeavor, for the purpose of "considerably reduc[ing] the time delay between the loading operation and the playing operations" (abstract).


It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Takahiro et al. such that the size of the disk is discriminated based on a period of time for the disk, when mounted on a turntable, to rotate at a predetermined speed from a stopped position, as taught by Son et al. A practitioner in the art would have been motivated to do this for the purpose of producing a disk size discriminator which is of a "simple hardware construction" and therefore, less expensive and complicated to manufacture. See col. 7, lines 1-4.

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is an examiner's statement of reasons for allowance: the prior art of record considered as a whole fails to teach or suggest a method of ejecting a disk from a disk loading apparatus, the method including the steps recited in independent claim 8, further including the specific step of controlling an operating time of ejecting the disk as recited in dependent claim 9.

Any inquiry concerning this communication should be directed to Paul Huber at telephone number 571-272-7588.



Paul Huber
Primary Examiner
Art Unit 2653

pwh
March 14, 2005